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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

SAFARI, MICHAEL

ART UNIT PAPER NUMBER

3673

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/661,445	Applicant(s) KARANIKAS, TERRY	
	Examiner M. Safavi	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on April 21, 2006 & April 27, 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

If applicant desires to claim the benefit of a prior-filed application under 35 U.S.C. 120, a specific reference to the prior-filed application in compliance with 37 CFR 1.78(a) must be included in the first sentence(s) of the specification following the title or in an application data sheet. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

Terminal Disclaimer

The terminal disclaimer filed on May 24, 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,629,395 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the surface or surfaces having curvilinear edges, (claim 17), must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Lines 15-16 of claim 15 recite “at least of one of said first, second and end panels is configured to be removably attached from one another” when it appears that lines 15-16 should read --at least of one of said first, second and end panels is configured to be removably attached to another panel--. Correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 15-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification does not appear to describe the limitation or condition of the “...surfaces *horizontally supports* a plurality of...discrete veneer components”. Such appears to be new matter. The specification does not appear clear and complete as to how the “...surfaces *horizontally supports* a plurality of...discrete veneer components”.

The specification does not appear to have originally disclosed the limitation or condition of “irregularly-shaped discrete veneer components”. Such appears to be new matter.

The specification does not appear to describe the limitation or condition of “at least one of the...surfaces is characterized by curvilinear edges”, (claim 17). The specification does not appear clear and complete as to “at least one of the...surfaces is characterized by curvilinear edges”.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15, lines 9-10, it is not clear as to what is being defined by the recitation of “...surfaces *horizontally supports* a plurality of...discrete veneer components”. The specification does not appear clear and complete as to how the “...surfaces *horizontally supports* a plurality of...discrete veneer components”. It is otherwise, not clear as to how the surfaces *horizontally supports* a plurality of...discrete veneer components. Further, it is not clear as to what is being defined by “irregularly-shaped discrete veneer components”. The specification does not set forth any definition as to any “irregularly-shaped discrete veneer components”.

Claim 17, it is not clear as to what is being defined by the recitation of “at least one of the...surfaces has curvilinear edges”. The specification does not appear to clearly describe such a limitation or condition. It is otherwise, not clear as to how “at least one of the...surfaces has curvilinear edges”.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dial, Jr. '424 or Carvel '504 in view of Torricelli '570.

Dial only shows a rectangular wall unit and form. Carvel teaches a wall unit form based on rectangular aspects. Blocks having non-rectangular shapes, however, are notoriously old and well known in the art of building construction and wall units, the blocks formed as appropriate for the desired application and varied in shape to provide adaptability for constructions therewith. As merely an example, Torricelli teaches both a rectangular block (Figs. 1-4) and teaches a curved block (Fig. 12) to be a modification thereof. Accordingly, it would have been obvious and well within the skill of one with ordinary skill in the art at the time the invention was made to modify the wall unit form of Dial or Carvel to include a non-rectangular aspect or curved wall panel design(s) in order to enable creation of correspondingly shaped non-rectangular construction units since non-rectangular construction units were notoriously old and well known in the art, as exemplified by Torricelli.

Claims 15, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dial, Jr. '424 in view of Sugiyama '572.

Dial, Jr. '424 discloses, Figs. 6, 8, 9, and 15-19, a first surface 61, formed by an interior surface of a first wall panel 66, a second surface, (61 of an opposite side), operatively attached to said first surface, said second surface formed by an interior surface of a second wall panel, (66 of an opposite side), end surfaces, (61 on the ends), operatively attached to said first and second surfaces thereby forming an upright form and opposing sides, said end surfaces formed by interior surfaces of end wall panels, wherein at least one of said first, second and end surfaces horizontally supports a plurality of shaped discrete veneer components 64 stacked vertically from the ground surface up against at least one panel, wherein the wall is formed of a binding material, (col. 4, line 46), to the wall unit form further wherein at least of one of said first, second and end panels is configured to be removably attached from one another, (col. 5, lines 22-25), to facilitate entry into a volume defined by the upright form, wherein said entry allows for placement of said plurality of irregularly-shaped discrete components, (**claim 15**). A volume is formed which can produce an "integral footing", (e.g., lower most part of the form), (**claim 19**). Pocket structures, or discrete components, 16, 16a are operatively attached to surfaces, (**claim 20**). Dial, Jr. '424 does not appear to disclose use of "irregularly-shaped veneer components" and does not appear to disclose four separate form panels.

However, Sugiyama '572 teaches, as in Fig. 1, application and utilization of "irregularly-shaped" veneer components to form a wall structure. Therefore, to have

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provided the Dial, Jr. '424 assembly with "irregularly-shaped" veneer components, along with or in place of the veneer components 64, thus providing a natural look to the wall surface, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Sugiyama '572. Dial, Jr. apparently discloses the capability of removing a panel, (albeit two panels at a time), which would allow access to the interior of the Dial, Jr. mold. In any event, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the Dial, Jr. assembly with four separate removable panels since it is well established that to provide for separable parts does not constitute patentable invention, *In re Dulberg*, 289 F.2d 522, 523, 129 USPQ 348, 349 (CCPA 1961). Further, adjustability, where needed, is not a patentable advance, *In re Stevens*, 212 F.2d 197, 101 USPQ 284 (CCPA 1954). With such a modification, Dial, Jr. would allow for removal, (thus interior access), of any of the four form panels.

Claims 15 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carvel '504 in view of Sugiyama '572.

Carvel '504 discloses, Figs. 26-33, a first surface, (surface of a side panel), formed by an interior surface of a first wall panel, (the first side panel), a second surface, (surface of an opposite side), operatively attached to said first surface, said second surface formed by an interior surface of a second wall panel, (an opposite side panel), end surfaces, (surfaces on the ends), operatively attached to said first and second surfaces thereby forming an upright form and opposing sides, said end surfaces

formed by interior surfaces of end wall panels, wherein at least one of said first, second and end surfaces horizontally supports a plurality of shaped discrete veneer components, (as can be seen in Fig. 26), stacked vertically from the ground surface up, (page 1, lines 74-77 and page 3, lines 64-69), against at least one panel, wherein the wall is formed of a binding material, (page 3, line 71), to the wall unit form further wherein at least one of said first, second and end panels is configured to be removably attached from one another, (col. 5, lines 22-25), (**claim 18**), to facilitate entry into a volume defined by the upright form, wherein said entry allows for placement of said plurality of irregularly-shaped discrete components, (**claim 15**). A volume is formed which can produce an "integral footing", (e.g., lower most part of the form), (**claim 19**). Pocket structures, or discrete components, 8 are operatively attached to surfaces, (**claim 20**). Carvel '504 does not appear to disclose use of "irregularly-shaped veneer components".

However, Sugiyama '572 teaches, as in Fig. 1, application and utilization of "irregularly-shaped" veneer components to form a wall structure. Therefore, to have provided the Carvel '504 assembly with "irregularly-shaped" veneer components, along with or in place of the Carvel '504 veneer components, thus providing a natural look to the wall surface, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Sugiyama '572. Carvel '504 discloses the capability of removing a panel which would allow access to the interior of the Carvel mold, col. 5, lines 22-25.

Claims 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dial, Jr. '424 in view of Sugiyama '572 as applied to claims 15, 19, and 20 above, and further in view of Schultz '761.

As stated above Dial discloses forming a volume that can produce an "integral footing". In any event, Schultz teaches, Figs. 2-5, forming a volume by providing extensions 9 on a mold to produce an "integral footing"; note that Schultz also teaches that the volume may have radiused corners as at 59 or 61. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the mold of Dial to include extensions forming a volume, optionally including radiused corners, as taught by Schultz in order to provide integral forming of a footing. Note that this modification is consistent with Dial's disclosure that architectural details may be built into the blocks (e.g. note block 93 in Fig. 14 and corresponding description in col. 7, lines 65-67).

Claims 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carvel '504 in view of Sugiyama '572 as applied to claims 15 and 18-20 above, and further in view of Schultz '761.

As stated above Carvel discloses forming a volume that can produce an "integral footing". In any event, Schultz teaches, Figs. 2-5, forming a volume by providing extensions 9 on a mold to produce an "integral footing"; note that Schultz also teaches that the volume may have radiused corners as at 59 or 61. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made

to modify the mold of Carvel to include extensions forming a volume, optionally including radiused corners, as taught by Schultz in order to provide integral forming of a footing. Note that this modification is consistent with Carvel's disclosure that the method may be employed to form wall sections of any desired shape such as may be designed by an architect for any particular part of the building (note page 3, lines 77-87).

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dial, Jr. '424 in view of Sugiyama '572 as applied to claims 15, 19, and 20 above, and further in view of Torricelli '570.

Dial only shows a rectangular wall unit and form. Blocks having non-rectangular shapes, however, are notoriously old and well known in the art of building construction and wall units, the blocks formed as appropriate for the desired application and varied in shape to provide adaptability for constructions therewith. As merely an example, Torricelli teaches both a rectangular block (Figs. 1-4) and teaches a curved block (Fig. 12) to be a modification thereof. Accordingly, it would have been obvious and well within the skill of one with ordinary skill in the art at the time the invention was made to modify the wall unit form of Dial to include a non-rectangular aspect or curved wall panel design(s) in order to enable creation of correspondingly shaped non-rectangular construction units since non-rectangular construction units were notoriously old and well known in the art, as exemplified by Torricelli.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carvel '504 in view of Sugiyama '572 as applied to claims 15 and 18-20 above, and further in view of Torricelli '570.

Carvel teaches a wall unit form based on rectangular aspects. Blocks having non-rectangular shapes, however, are notoriously old and well known in the art of building construction and wall units, the blocks formed as appropriate for the desired application and varied in shape to provide adaptability for constructions therewith. As merely an example, Torricelli teaches both a rectangular block (Figs. 1-4) and teaches a curved block (Fig. 12) to be a modification thereof. Accordingly, it would have been obvious and well within the skill of one with ordinary skill in the art at the time the invention was made to modify the wall unit form of Carvel to include a non-rectangular aspect or curved wall panel design(s) in order to enable creation of correspondingly shaped non-rectangular construction units since non-rectangular construction units were notoriously old and well known in the art, as exemplified by Torricelli.

Response to Arguments

Applicant's arguments filed May 24, 2005 have been fully considered but they are not persuasive. Dial, Jr. as modified does provide for "at least of one of said first, second and end panels...configured to be removably attached from...another [panel] to facilitate entry into a volume defined by the upright form". And, Carvel does allow for access into a volume defined by the form as is expressed at lines 58-62 on page 3 of Carvel '504.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



M. Safavi
June 28, 2006

MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354